

# Court of Appeals, State of Michigan

## ORDER

Kellie Wager v Westfield Insurance Company

Docket No. 280068

LC No. 06-009350-NZ

Kirsten Frank Kelly  
Presiding Judge

Brian K. Zahra

Christopher M. Murray  
Judges

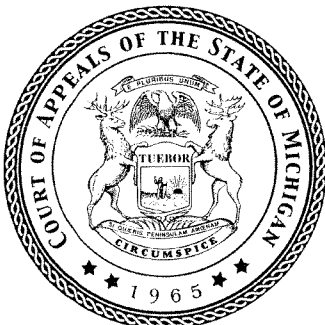
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The Court orders that the motion for immediate consideration is GRANTED.

The motion for stay is DENIED.

In lieu of granting the application, the Court orders, pursuant to MCR 7.205(D)(2), that the July 31, 2007, order of the Midland County Circuit Court denying defendant's second motion summary disposition hereby is REVERSED. Considering the facts in light most favorable to plaintiff, the record before this Court does not demonstrate the requisite elements of promissory estoppel. See *Novak v Nationwide Mut Ins Co*, 235 Mich App 675, 687; 599 NW2d 546 (1999). Further, plaintiff cannot evade the one-year-back rule, MCL 500.3145(1), by attempting to recast her claim for personal injury protection benefits as an equitable action. Equitable considerations are irrelevant given the unambiguous language in the one-year-back rule, *Devillers v Auto Club Ins Ass'n*, 473 Mich 562; 702 NW2d 539 (2005). The case is REMANDED to the circuit court for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP 07 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk